

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and

THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.40806 of 2015

R. Shanmugamudaliar
represented by his Power Agent
S.S. Muthu Kumar

Petitioner

Vs.

- 1 The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai
- 2 The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 3 The Commissioner
Thiruverkadu Municipality
Sivan Koil Street
Thiruverkadu
Chennai - 600 077

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records of the first respondent in letter no.16934/UD-VI(2)/2015-1 dated 11.09.2015 in rejecting the petitioner's appeal filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, as against the locking and sealing decision of the second and third respondents for the building comprised in Plot No.56, Pillayar Madam Thangal, Moovendar Nagar, Noombal, Chennai 600 077 by quashing the same and consequently, direct the respondents to regularise the building put up in the aforementioned property.

For petitioner Mr. B. Vijay
For R1 Mr. N. Sakthivel, Govt. Advocate
For R2 Mr. N. Sampath, Standing Counsel
For R3 Mr. K. Karthikeyan, Standing Counsel

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Mr. N. Sampath, learned Standing Counsel, accepts notice for the second respondent. Mr. K. Karthikeyan, learned Standing Counsel, accepts notice for the third respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed challenging the order dated 11 September 2015 passed by the first respondent-Government rejecting the appeal (sic) application preferred by the petitioner challenging the locking, sealing and demolition notice dated 27 July 2015 issued by the third respondent under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 The learned counsel for the petitioner, relying on the decision of a Division Bench of this Court in Lalithkumar C. Soni vs. Government Tamil Nadu and Others¹, wherein, it was held that sealing of the premises is not a condition precedent for filing a special revision petition under Section 80-A of the Act, submits that the impugned order passed by the first respondent-Government rejecting the petitioner's application filed under Section 80-A of the Act on the ground that the same is not maintainable for want of locking and sealing of the premises, is erroneous.

4 The learned Government Advocate appearing for the first respondent fairly submits that the matter may be remitted back to the first respondent-Government for re-consideration.

5 In view of the aforesaid submission made by the learned Government Advocate, the impugned order passed by the first respondent-Government is set aside and the matter is remitted back to the first respondent-Government to re-consider all the issues afresh and pass orders on merits, in the light of the aforesaid decision.

The writ petition stands disposed of accordingly. Costs made easy.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cad

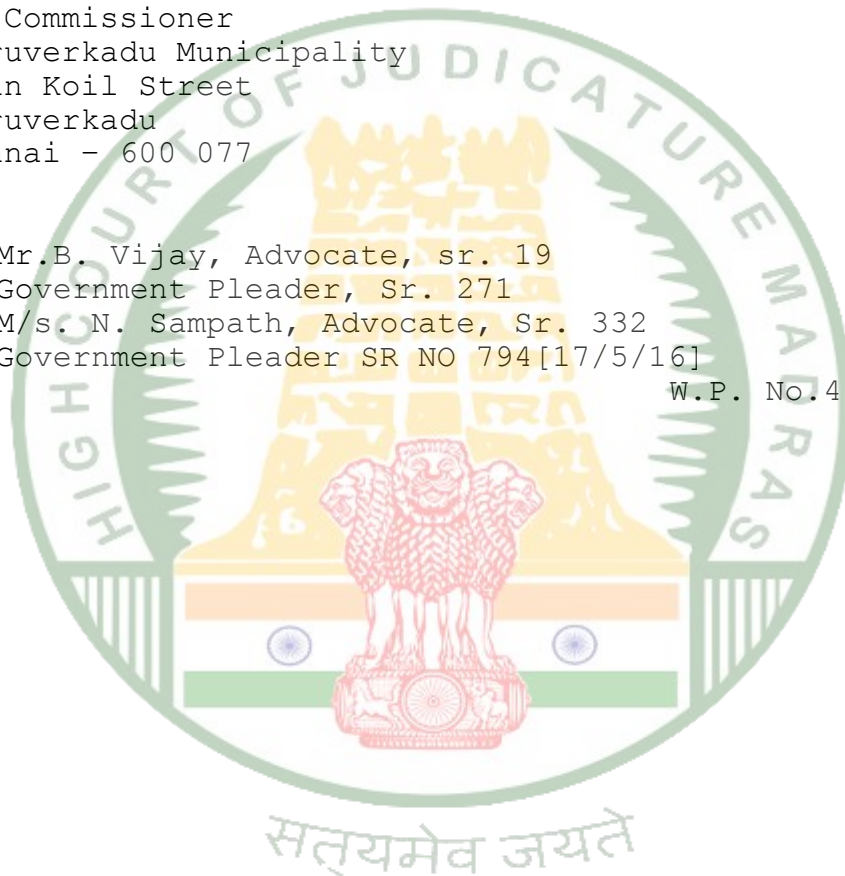
To

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- 1 cc to Mr.B. Vijay, Advocate, sr. 19
- 1 cc to Government Pleader, Sr. 271
- 1 cc to M/s. N. Sampath, Advocate, Sr. 332
- 1 cc to Government Pleader SR NO 794[17/5/16]

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